



Amnesty and Bad Discharges

by Robert K. Musil

John T. is a powerful and articulate black man. Nearing 40, he looks prosperous, a member of the rising black middle class in Philadelphia. But he is not. John is unemployed, in fact, almost unemployable—the holder of an Undesirable Discharge after 17 years of service in the United States Air Force, most recently as a Technical Sergeant in supply. John made the mistake of overstaying an emergency leave from Southeast Asia to visit his hospitalized wife in the States. It was his first AWOL—and his last. Three years short of retirement—and decorated for his service in Vietnam—he is now branded “undesirable” and barred from veterans’ benefits.

If the Air Force can be heartless with even its best career NCO’s, the situation is even worse for young, dissenting GI’s in all services. Dan H., for example, like a number of Marines in the late sixties, was hung by his wrists for long periods of time at the Camp Pendleton, California brig. The shocking conditions at Pendleton—like those at the Army’s Presidio—were later exposed in the media. An in-depth report on CBS television showed Mike Wallace examining what amounted to the Marine’s version of tiger cages. Although conditions improved somewhat, media interest in the Pendleton brig and the other stockades soon faded.

Robert K. Musil is Associate Secretary of CCCO, an agency for military and draft counseling. He co-edits “CCCO News Notes” for which this article was prepared.

A Life Sentence

For Dan, however, Pendleton is a name he will never forget. He developed severe psychological problems after his brutal treatment there and went AWOL to Canada. Unable to make it in a new country, he finally returned to the United States and turned himself in to the Marine Corps. The result: an Undesirable Discharge. Dan has now bounced from one menial job to another. He is ineligible for any veterans’ help, and threatens suicide. The effect of a bad discharge from the military is, in effect a life sentence.

It is incredible that such penalties can be given to a young man often after he has been drafted away from his home, been wounded in Vietnam, gone AWOL, lived underground, been apprehended by the FBI and rotted in a military stockade.

A Federal judge summed up the effect of an Undesirable Discharge nicely:

There can be no doubt that an Undesirable Discharge . . . is punitive in nature, since it stigmatizes the serviceman’s reputation, impedes his ability to gain employment and is in life, if not in law, *prima facie* evidence against the serviceman’s character, patriotism, or loyalty.

The Undesirable and other bad discharges provide a terrible kind of double jeopardy: a life sentence on top of military punishment. And the problem has been massive during the Vietnam era, when bad discharges have been used to stifle burgeoning dissent over war, racism, and the

indignities of military life in general. According to the Department of Defense statistics, over 424,000 veterans of the Vietnam era (August, 1964-March, 1973) have been branded for life with bad discharges.

Most civilians have little appreciation of the complexities or the injustices of the discharge system. And even fewer understand why amnesty groups like Americans For Amnesty are including all veterans with bad discharges in their call for unconditional amnesty. For many Americans, the phrase "bad discharge" seems to call up images of some sort of horrible mixture of sodomy and treason—or worse. Overcoming this powerful, and inaccurate, emotional response may be the toughest job of all for amnesty forces.

One can, in fact, get a bad discharge for sodomy or treason, but the realities of why Vietnam-era veterans received less than honorable discharges are far different. First it is important to understand what are the kinds of bad discharges and how they are given. For enlisted personnel there are four kinds of less than honorable discharges:

General
Undesirable (UD)
Bad Conduct (BCD)
Dishonorable (DD)

The first two are administrative discharges "awarded" *without trial*; the other two are punitive discharges and must be given by a court-martial. In either case, the methods used are shocking.

Administrative discharges are given by a board of officers (not peers of the enlisted person they stigmatize) who preside over a quicky, kangaroo procedure in which the victim cannot even have his accusers cross-examined. Reasons for such discharges include enuresis (bed-wetting), apathy, obesity, financial irresponsibility, homosexual tendencies, character disorders, and a host of other vague reasons—including, in most branches, "for other good and sufficient reasons." In short, a GI could be stamped as homosexual without trial and then be penalized for life.

Conduct Unbecoming

The situation is not much better with courts-martial which give Bad Conduct Discharges and Dishonorable Discharges. Of the over 550,000 courts-martial during Vietnam, the vast majority were for the crime of AWOL. Another 10 percent were for disobedience of various kinds. Very few were for ordinary "criminal" behavior. The average GI is faced with an impressive array of statutes that can make him guilty of about anything the service wants. Such vague phrases as "disrespect," "conduct unbecoming," "promoting

disloyalty," and so on dot the pages of the Uniform Code of Military Justice. Only recently have Federal courts ruled unconstitutional the infamous catch-all of military law, Article 134, which forbids "all other acts prejudicial to good order and discipline."

Bad Conduct Discharges and Dishonorable Discharges bar veterans from all benefits by law. Undesirable Discharges eliminate benefits in practice. Only the General Discharge still allows Veterans Administration benefits (although vets with Generals are barred from state benefits in places like New York where you must have an *Honorable Discharge*. All four discharges, however carry severe stigmas for employment in all fields or admission to college and professional associations.

In the climate of dissent over Vietnam, it is not surprising that the discharge system has been grossly abused. Commanders have had little difficulty in branding protestors for life with administrative discharges. Often a commander will threaten a GI with the severe penalties of a court-martial—including time in the stockade or brig—but knowing he cannot get a conviction, will generously offer a bad discharge instead.

Discharges Hide Dissent

This procedure not only helps the services rid themselves of dissenters, it allows them to hide the extent of anti-war activity. A bad discharge for "apathy" or "character disorders" looks a lot better in the statistics than "discharged as anti-war protestor."

This cover-up method is used most commonly by giving Undesirable Discharges to returning AWOLS. There have been about 500,000 long-term AWOLS in the Vietnam years. Most were related to antiwar or anti-military feelings. But the Pentagon goes to great lengths to convince the public that these AWOLS simply have ancient and apolitical problems like homesickness or "inability to adjust." The label "undesirable" neatly shifts the burden of moral guilt in a way that Calvin would approve—off the back of the military and the war, and onto the individual.

A survey conducted by Major Bradley K. Jones and published in the Winter, 1973, issue of *MILITARY LAW REVIEW*, shows with hard data the shattering effects of a bad discharge. Jones surveyed 1,000 employers around the country, ranging from big business to labor unions, bar examiners, and colleges. About two-thirds of all employers inquire about the character of an applicant's discharge, and one-third require the presentation of the actual discharge certificate itself. Thus, employers are likely to care about a veteran's discharge, and, as Jones' survey reveals, are severely prejudiced

against those with other than Honorable Discharges.

To use the most common example, the undesirable discharge, one-third of all business employers queried *automatically reject any applicant with a UD*. Three-fourths of them are influenced against the candidate by it. The situation is similarly bad with the other discharges (slightly better for General, even worse for BCD's and DD's). Jones also found that with all bad discharges *most employers look beyond the discharge to determine the cause*.

Employers are aided in all of this by a little-known system of codes called the Separation Program Numbers (SPN) found on all official discharge papers (DD Form 214). The SPN code identifies the reason for discharge (in the interest of national security, alcoholism, apathy, unsanitary habits, drugs, conscientious objection, or for being a "marginal producer," plus scores of others). SPN codes can even taint an *Honorable Discharge*. In fact, over 100,000 Vietnam vets with "good" discharges, i.e. honorable, can be discriminated against because SPN codes are readily available to employers. A fact sheet from the Pentagon says the SPN codes are needed to determine a serviceman's "eligibility for veteran's benefits, his current Selective Service classification and his potential for future military service." VA officials contradict this position, saying the SPN numbers are unnecessary for veterans with Honorable Discharges since these vets are automatically entitled to benefits. They also point out that determination of future service qualifications is taken care of by yet another code on the discharge papers.

The arbitrariness and life-time penalty of a bad discharge hits minority GI's particularly hard. In 1972, according to the Department of Defense Task Force on the Administration of Military Justice in the Armed Forces, 24.6 percent of all Dishonorable Discharges in the Army went to blacks, at a time when they comprised only about 14 percent of that service. DoD doesn't keep statistics on other minority discharges, such as Chicano, Indian, or Oriental, but knowledgeable observers say that the situation is as bad. Altogether minority GI's may make up as much as half of all bad discharges.

Barred from VA benefits and armed with a bad discharge, the future is bleak for most minority veterans whose problems—whatever their nature—were usually exacerbated by racism in the military. In the Navy, for example, blacks were recruited in the 1970's with much fanfare and resultant good PR for the service. When black sailors protested racist conditions throughout the Navy, however—riots aboard the USS Constellation, among others, were fostered in part by disproportionate numbers of General and Undesirable Discharges going to blacks—

they were discharged under less than honorable conditions and swept out the back door in large numbers, without the fanfare that had welcomed their arrival.

Black anti-war protestors, as a rule, suffered severe penalties in the military and often received far less publicity than their white counterparts. Marine Corporal William Harvey and Private George Daniels, for instance, were convicted in 1967 of making "disloyal statements" and attempting to cause "insubordination, disloyalty, and refusal of duty" for telling other black Marines in a barracks bull session that Vietnam was a "white man's war." They were sentenced to an almost unbelievable ten and six years, respectively.

Although their convictions were finally overturned on appeal, Daniels had already served more than two years in military prison, far longer than the four months portion of his sentence that was upheld. In any case, George Daniels, like thousands of other unknown protesting GI's, is stuck with a bad discharge. In effect, a life sentence.

Some of these veterans can be helped. There are a few avenues for appeal and upgrading discharges: first, before a Discharge Review Board, then the Board for the Correction of Military Records, and occasionally, Federal Court. Increasing numbers of peace, counseling, and veterans groups are turning to actively help in upgrading discharge cases, but the process is long, difficult, and often very costly. Few veterans know that help is available, and even if they do, the paperwork, bureaucracy, and general "hassle" of dealing with government institutions keeps many vets from applying.

Since the inception of the Army Discharge Review Board in 1944, only 14,860 of 94,700 cases, or 15.7 percent, have been upgraded to Honorable or General Discharges. For a genuine redress of grievances, veterans of the Vietnam era with bad discharges will finally need an unconditional amnesty. Without it, most veterans with bad discharges—despite upgrading efforts—can expect to remain branded for life. Men like John T., Dan H., and nearly half a million veterans like them will be unemployable in all but the most menial jobs, and without veterans' benefits for education, housing, loans, medical care—unless there is an amnesty.

It is a situation that should produce shame for Americans; a needless indecency and indignity after so many that have gone before. Discharges must become uniform—special codes and characterizations eliminated. And all veterans with less than Honorable Discharges, who now suffer for life, must be included in our demands for a universal and unconditional amnesty.